Roopa Ram vs. State of Rajasthan & Ors.

SB Civil 1st Appeal No.79/1995

Date of Judgment: 10th May, 2007.

PRESENT

HON'BLE MR.JUSTICE BHAGWATI PRASAD

Mr.Arvind Samdariya for the appellant/s.
Mr.Narendra Mool Chandani, G.A.

Heard learned counsel for the parties.

The learned counsel for the appellant submits that the appellant had filed the suit for refund of security amount and amount of final bill, regarding contract work completed by the appellant. The trial court has dismissed the suit holding the same as barred by limitation.

Counsel for the appellant submits that the court below has dismissed the suit while applying Article 18 of the Limitation Act, 1963 (hereinafter referred to as 'the Act'), whereas, in fact, in such matters Article 113 of the Act applies and period of limitation commences from the date when the right to sue accrues. The counsel for the appellant further submits that in the present matter notice u/s 80 CPC was given on 20.05.88 by the appellant and the suit was filed

on 26.10.88. Hence the suit is within limitation.

Learned counsel for the respondent supported the judgment of trial court and submitted that the work was completed in July 1982. Hence, limitation for filing suit expired in July, 1985.

Having considered the contentions of both the sides and perusing the record of the case , it is clear that the work was completed in the year 1982. Therefore, right to sue accrued to the appellant in the year 1982 and the limitation of 3 year expired in the year 1985.

In this view of the matter, this court do not find any illegality in the impugned judgment and decree. Therefore, this appeal has no merit. Hence dismissed. No orders as to cost.

(BHAGWATI PRASAD), J.

L.George